

## REMARKS

Claims 1-10 are now currently pending in the application. The Office objected to the drawings as failing to show all the claimed features and for including misnumbered elements. Additionally, the Office rejected claim 4 under 35 U.S.C. § 112, second paragraph, as being indefinite. Further, the Office rejected claim 1-5 and 8 under 35 U.S.C. § 112, second paragraph, as being indefinite. Still further, the Office rejected claims 1-3 and 5-9 under 35 U.S.C. § 102 (b) as being anticipated by U.S. 5, 000,377 (McClure '377). Finally, the Office rejected claims 2, 5-7, 9 and 10 under 35 U.S.C. § 102 (b) as being anticipated by U.S. 6, 402,020 (McClure '020). Although the Applicant respectfully traverses all of the rejections raised in the Office Action, the Applicant has cancelled claims 3, 4, and 8. Also, Applicant has amended claims 1 and 6 to more fully define and distinguish the invention. No new matter has been added. Pursuant to 37 C.F.R. § 1.111, Applicant respectfully requests reconsideration of the application.

### **Drawings**

The Office rejected the corrected drawing Figures 2, and originally filed Figures 3-6, as an entire set of new drawings were required by the Notice to File Missing Parts. An entire set of new corrected drawing Figures 1-6 are enclosed herewith. No new matter has been added. Applicant thanks the Office for noticing these oversights, and hereby requests removal of this ground of objection.

### **Informalities**

Objections to the Specification have been addressed with amendments correcting the misspelled word "tom," and correcting the unclear sentence on Page 3. Claim 4 has been cancelled thereby rendering the antecedent objection moot. No new matter has been added. Applicant thanks the Office for noticing these oversights, and hereby requests removal of this ground of objection.

### **Rejection of Claim 4 under 35 U.S.C. 112**

Claim 4 is rejected under 35 USC 112 as failing to comply with the enablement requirement, and also for failing to comply with the written description requirement. Claim 4

was rejected because the phrases “lift cut-out” and “second divider panel” was unclear. Applicant has cancelled claim 4 thereby rendering the antecedent objection moot. Applicant thanks the Office for bringing this hindsight to the Applicant’s attention. As such, Applicant respectfully requests removal of this ground of rejection.

**Rejection of Claims 1-5 and 8 under 35 U.S.C. 112**

The Office rejected claims 1-5 and 8 as being unclear. Specifically, in claim 1, the phrase “a side panels” and “a end panel” were unclear as to how many of each were claimed. Claim 1 has been amended to correct this oversight. Further, claims 5 and 8 have been cancelled thereby rendering their rejection moot. Consequently, Applicant requests removal of this ground of rejection.

**Rejection of Claims 1-3 and 5-9 under 35 U.S.C. 102(b)**

The Office Action rejected claims 1-3 and 5-9 under 35 U.S.C. 102(b) as being anticipated by McClure ‘377. The Office failed to provide any identification of the elements in the cited art that corresponds to the claims of the present invention. As such, Applicant is uncertain which features the Office is relying upon in the Office Action. In the interest of economy, Applicant has made attempt to understand the Office’s interpretation of the art in making this response. However, Applicant respectfully requests that the Office provide a clear identification of the elements in the cited art relied upon in the previous Office Action.

In order for a rejection to be proper under 35 U.S.C. § 102(b), the reference or references must teach each and every claim element. Appellant respectfully notes that the McClure ‘377 fails to teach every claim element of claim 1 as currently amended. Specifically, McClure ‘377 fails to disclose “...a corner third panel connected with said corner second panel opposite said corner first panel, said corner third panel defining a corner third panel cutout.” Additionally, claim 1 has been amended to include the limitation that the “...wherein said corner third panel cut-out extends to a free end of the corner third panel ....” At a minimum, Applicant respectfully submits that neither of these limitations are disclosed, taught or even suggested by the cited art. McClure ‘377 does not teach, suggest or even disclose even a “corner third panel cut-out,” or any equivalent structure, let alone “...wherein said corner third panel cut-out extends to a free end of the corner third panel ....” Quite to

the contrary, McClure '377 merely teaches using an adhesive to attach glue tabs 50, 52 to an "outside surface of the end walls." Thus McClure '377 does not provide any cutout at all that can possibly be considered even equivalent to that in the present application.

The corner third panel cut out of the present invention is arranged such that when the container is in the closed state, "the top panel flaps 36 rest upon a top edge of the corner end panel cutout 38 (FIGURE 6). In this manner, the corner reinforcing assembly 31 helps support the top panels 26, thereby increasing the container's crushing strength." (pg 3: lns 32-35). McClure '377 provides no such teaching. As such, claim 1 is not anticipated by the cite reference. Applicant respectfully requests removal of this ground of rejection.

With respect to claims 2, 3, and 5, claims 2 and 5 are dependent upon claim 1 and are therefore allowable for the same reasons that make claim 1 allowable. Claim 3 has been cancelled thus rendering its rejection moot.

With respect to claim 6, in the interest of brevity, Applicant respectfully incorporates the arguments presented above regarding the "corner third panel cut-out" discussed above herein. Applicant respectfully also tenders that claim 6 includes the claim limitation that the "...corner third panel cut-out forms a top edge that is below a top edge of the end panel in the region of the corner third panel cut-out...." As the cited art fails to provide a cutout of any kind related to this claim limitation, then it is impossible for the art to also teach "...corner third panel cut-out forms a top edge that is below a top edge of the end panel in the region of the corner third panel cut-out...." As these limitations are present in claim 6 and is not taught by McClure '377, this claim is not anticipated by the cited art.

With respect to claims 7-9, claims 7 and 9 are dependent upon claim 6 and are therefore allowable for the same reasons that make claim 6 allowable. Claim 8 has been cancelled thus rendering its rejection moot. As such, applicant respectfully requests removal of this ground of rejection.

#### **Rejection of Claims 1, 2 5-7, 9 and 10 under 35 U.S.C. 102(b)**

The Office Action rejected claims 1, 2 5-7, 9 and 10 under 35 U.S.C. 102(b) as being anticipated by McClure '020. Again, the Office failed to provide any identification of the elements in the cited art that corresponds to the claims of the present invention. Applicant

respectfully requests that the Office provide a clear identification of the elements in the cited art relied upon in the previous Office Action.

With respect to claim 1, the deficiencies of McClure '377 are discussed in detail above and are incorporated herein for brevity's sake. McClure '020, like McClure '377 discussed above, fails to describe, teach, or even suggest the limitation that the "...wherein said corner third panel cut-out extends to a free end of the corner third panel ...." Quite to the contrary, cutouts 78 and 66 (as best seen in FIGURE 4 of McClure '020) are in the middle of their respective panels. As such, the benefits of the present design, as discussed above, can not be attained by the McClure '020 reference, nor are they taught, disclosed or even suggested. Consequently, as the cited reference fails to teach all the limitation of claim 1, claim 1 is not anticipated by the reference.

With respect to claims 2, and 5, they are dependent upon claim 1 and are therefore allowable for the same reasons that make claim 1 allowable.

With respect to claim 6, applicant respectfully tenders that claim 6 includes the claim limitation that the "...corner third panel cut-out forms a top edge that is below a top edge of the end panel in the region of the corner third panel cut-out..." which is discussed in detail above. In the interest of brevity, Applicant respectfully incorporates the arguments presented above regarding this limitation herein. Additionally, it will be appreciated that the relative heights of the end panel vs. the depth of the adjacent corner third panel cutout provides significant advantages over the cited art by providing increased support and stability for the top panel flaps 36 when the container top is closed. As this limitation is present in claim 6 and is not taught by McClure '020, this claim is not anticipated by the cited art.

With respect to claims 7, 9, and 10, these are dependent upon claim 6 and are therefore allowable for the same reasons that make claim 6 allowable. As such, applicant respectfully requests removal of this ground of rejection.

## CONCLUSION

Based upon the above remarks, Applicant respectfully requests reconsideration of the application and its early allowance. The Examiner is invited to contact the undersigned should direct communication on this matter be deemed helpful to facilitate progression of the case.

RESPECTFULLY SUBMITTED,

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